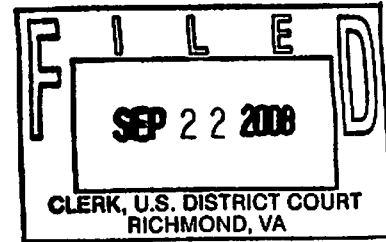


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



LEONARD CARTER, JR.,

Plaintiff,

v.

Civil Action No. 3:08CV467

BRYAN WATSON, et al.,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Virginia prisoner, submitted this action and requested leave to proceed *in forma pauperis*. A prisoner is precluded from proceeding *in forma pauperis*:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has at least three actions or appeals that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. *See e.g., Carter v. Thomas*, 3:00cv735 (E.D. Va. May 3, 2001); *Carter v. Commonwealth*, 3:98cv53 (E.D. Va. Aug. 4, 1998); *Carter v. Commonwealth*, 3:97cv558 (E.D. Va. Jan. 29, 1998). Plaintiff's current complaint did not demonstrate that Plaintiff is in imminent danger of serious physical harm. Accordingly, by Memorandum Order entered on August 6, 2008, the Court denied Plaintiff's request to proceed *in forma pauperis* and directed Plaintiff to pay the full filing fee within eleven (11) days of the date of entry thereof.

Over eleven (11) days have elapsed since the entry of the August 6, 2008 Memorandum Order. Plaintiff has not paid the filing fee. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Date: **SEP 22 2008**
Richmond, Virginia

/s/
Richard L. Williams
United States District Judge